

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Haiyan Lin,

Plaintiff,

v.

Rusty Brown, *doing business as*, American
Auto Sales,

Defendant.

C/A No. 3:22-cv-3740-JFA-PJG

ORDER

Plaintiff, Haiyan Lin (“Plaintiff”) proceeding pro se, filed the state law breach of contract action in this Court pursuant to this Court’s diversity jurisdiction under 28 U.S.C. § 1332. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.), the case was referred to the Magistrate Judge for initial review.

On October 28, 2022, Plaintiff filed his Complaint against Defendant, Rusty Brown, doing business as, American Auto Sales (“Defendant”). Plaintiff asserts causes of action for fraud, breach of contract, and fraudulent conversion. (ECF No. 1). On January 4, 2023, Defendant appeared and filed a motion to dismiss. In his motion, Defendant argues that Plaintiff filed an identical lawsuit in Sumter County Court of Common Pleas, and he filed an Answer in the state court prior to filing the instant motion. Defendant argues this Court should abstain from exercising federal jurisdiction pursuant to the *Colorado River Water Conservation Dist. v. United States*, 424 U.S. 800, 802 (1976). On March 10, 2023,

Plaintiff filed a Response in Opposition, and on March 27, 2023, Defendant filed a reply. (ECF Nos. 35 & 45).

After reviewing the Complaint as well as the instant Motion, the Magistrate Judge assigned to this action¹ issued a thorough Report and Recommendation (“Report”). (ECF No. 55). Within the Report, the Magistrate Judge opines Defendant’s motion should be denied. The Report sets forth, in detail, the relevant facts and standards of law on this matter, and this Court incorporates those facts and standards without a recitation.

The parties were advised of his right to object to the Report, which was entered on the docket on May 10, 2023. *Id.* The Magistrate Judge required the parties to file objections by May 24, 2023. *Id.* Neither party filed any objections, and thus, this matter is ripe for review.

A district court is only required to conduct a *de novo* review of the specific portions of the Magistrate Judge’s Report to which an objection is made. *See* 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b); *Carniewski v. W. Virginia Bd. of Prob. & Parole*, 974 F.2d 1330 (4th Cir. 1992). In the absence of specific objections to portions of the Magistrate’s Report, this Court is not required to give an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983).

Specifically, the Report uses the factors set forth in *vonRosenberg v. Lawrence*, 849 F.3d 163, 167 (4th Cir. 2017) to decide whether to apply the Colorado River abstention to

¹ The Magistrate Judge’s review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(d) (D.S.C.). The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (1976).

this case. The factors set forth in *vonRosenberg* for a court's consideration are the following:

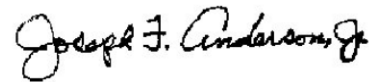
- (1) whether the subject matter of the litigation involves property where the first court may assume in rem jurisdiction to the exclusion of others; (2) whether the federal forum is an inconvenient one; (3) the desirability of avoiding piecemeal litigation; (4) the relevant order in which the courts obtained jurisdiction and the progress achieved in each action; (5) whether state law or federal law provides the rule of decision on the merits; and (6) the adequacy of the state proceeding to protect the parties' rights.

vonRosenberg, 849 F.3d at 168 (quoting *Chase Brexton Health Servs., Inc. v. Maryland*, 411 F.3d 457, 463 (4th Cir. 2005)). After considering these factors in light of the facts of this case, the Magistrate Judge ultimately concludes that abstention is not appropriate at this time. Because the parties did not file objections to the Report, this Court may adopt the Report without explanation. . *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983).

Therefore, this Court adopts the Report and Recommendation (ECF No. 55) in full and Defendant's Motion to Dismiss (ECF No. 19) is denied.

IT IS SO ORDERED.

June 1, 2023
Columbia, South Carolina



Joseph F. Anderson, Jr.
United States District Judge